



**REPUBLIC OF KENYA**

**High Court at Nakuru**

**Civil Case 114 of 2012**

**MARY CHEPTOO SOTE.....PLAINTIFF**

**VERSUS**

**SAMSON C. BARNAWACH.....1<sup>ST</sup> DEFENDANT**

**DAVID K. CHEPSOI.....2<sup>ND</sup> DEFENDANT**

**JUDGMENT**

The plaintiff, an old lady about 60 years old jointly with her late mother owned KAMPI YA MOTO/KAMPI YA MOTO BLOCK 1/27 measuring approximately 6.475Ha. Upon the death of her mother, she obtained a grant of representation of her estate. Subsequently, she subdivided the property into KAMPI YA MOTO/KAMPI YA MOTO BLOCKS 1/1031, 1033 and 1034 measuring 2.428Ha, 0.4046Ha and 0.4046Ha, respectively

Without any colour of right, the defendants have invaded the suit properties denying the applicant the use of her property thereby occasioning her loss and damage. Instead she has been attacked viciously and sustained fairly serious injuries. She forgave the defendants for this yet they have flatly refused to vacate the parcels of land in question.

Despite service with the pleadings and the hearing notice, the defendants have elected not to participate in these proceedings resulting in judgment in default being entered against them.

In her testimony, the plaintiff has shown on a balance of probability that she is presently the registered proprietor of the suit properties. She has produced documents tracing the history of the properties from the days before the subdivision when it was held jointly by her and her late mother; how she obtained letters of administration before subdividing the original parcel into three. She has annexed copies of title deeds and certificates of official search to confirm her ownership of those properties. She has satisfied the court that the defendants have no right to be on the two parcels of land. Indeed the defendants have placed no such claim before the court.

For these reasons, judgment entered against the defendants is confirmed and they are ordered:

- i) to give vacant possession forthwith and in any case not later than 15 days from the date of service with this order failing which the plaintiff may seek from court the assistance of the police to evict them; going by the previous experience when she was attacked;
- ii) upon being evicted, the defendants will be restrained by an injunction from entering the suit properties or interfering with the plaintiff's quiet possession of the three parcels.

Costs awarded to the plaintiff.

**Dated and Signed at Nakuru this 4<sup>th</sup> day of February, 2013**

**W. OUKO  
JUDGE**

**Dated, Signed and Delivered at Nakuru this 12<sup>th</sup> day of February, 2013 by Hon. Justice M. J. Anyara Emukule.**

**JUDGE**